

# Licensing Sub-Committee

**Date: Thursday, 9th March, 2023**

**Time: 10.00am**

**Venue: Council Chamber - Guildhall, Bath**

**Councillors:** Rob Appleyard, Steve Hedges and Karen Warrington

Chief Executive and other appropriate officers  
Press and Public

**A briefing session for Members will be held at 9.30am**



**Mark Durnford**

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## NOTES:

1. **Inspection of Papers:** Papers are available for inspection as follows:

Council's website: <https://democracy.bathnes.gov.uk/ieDocHome.aspx?bcr=1>

2. **Details of decisions taken at this meeting** can be found in the minutes which will be circulated with the agenda for the next meeting. In the meantime, details can be obtained by contacting as above.

## 3. Recording at Meetings:-

The Openness of Local Government Bodies Regulations 2014 now allows filming and recording by anyone attending a meeting. This is not within the Council's control. Some of our meetings are webcast. At the start of the meeting, the Chair will confirm if all or part of the meeting is to be filmed. If you would prefer not to be filmed for the webcast, please make yourself known to the camera operators. We request that those filming/recording meetings avoid filming public seating areas, children, vulnerable people etc; however, the Council cannot guarantee this will happen.

The Council will broadcast the images and sounds live via the internet [www.bathnes.gov.uk/webcast](http://www.bathnes.gov.uk/webcast). The Council may also use the images/sound recordings on its social media site or share with other organisations, such as broadcasters.

## 4. Public Speaking at Meetings

The Council has a scheme to encourage the public to make their views known at meetings. They may make a statement relevant to what the meeting has power to do. They may also present a petition or a deputation on behalf of a group.

**Advance notice is required not less than two full working days before the meeting. This means that for meetings held on Thursdays notice must be received in Democratic Services by 5.00pm the previous Monday.**

Further details of the scheme can be found at:

<https://democracy.bathnes.gov.uk/ecCatDisplay.aspx?sch=doc&cat=12942>

## 5. Emergency Evacuation Procedure

When the continuous alarm sounds, you must evacuate the building by one of the designated exits and proceed to the named assembly point. The designated exits are signposted. Arrangements are in place for the safe evacuation of disabled people.

## 6. Supplementary information for meetings

Additional information and Protocols and procedures relating to meetings

<https://democracy.bathnes.gov.uk/ecCatDisplay.aspx?sch=doc&cat=13505>

**Licensing Sub-Committee - Thursday, 9th March, 2023**

**at 10.00am in the Council Chamber - Guildhall, Bath**

**A G E N D A**

1. EMERGENCY EVACUATION PROCEDURE

The Chair will draw attention to the emergency evacuation procedure as set out under Note 5 on the previous page.

2. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

3. DECLARATIONS OF INTEREST

At this point in the meeting declarations of interest are received from Members in any of the agenda items under consideration at the meeting.

(a) The agenda item number in which they have an interest to declare.

(b) The nature of their interest.

(c) Whether their interest is a **disclosable pecuniary interest** or an **other interest** (as defined in Part 4.4 Appendix B of the Code of Conduct and Rules for Registration of Interests).

Any Member who needs to clarify any matters relating to the declaration of interests is recommended to seek advice from the Council's Monitoring Officer or a member of his staff before the meeting to expedite dealing with the item during the meeting.

4. TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

5. MINUTES OF PREVIOUS MEETING: 1ST DECEMBER 2022 & 6TH DECEMBER 2022 (Pages 5 - 18)

6. LICENSING PROCEDURE (Pages 19 - 22)

The Chair will, if required, explain the licensing procedure.

7. EXCLUSION OF THE PUBLIC

The Committee is asked to consider passing the following resolution:

"the Committee having been satisfied that the public interest would be better served by not disclosing relevant information, in accordance with the provisions of Section 100(A)(4) of the Local Government Act 1972, **RESOLVES** that the public shall be excluded from the meeting for the following item(s) of business and the reporting of the meeting be prevented under Section 100A(5A), because of the likely disclosure of exempt information as defined in paragraphs 1 and 2 of Part 1 of Schedule 12A of the Act, as amended.

8. CONSIDERATION OF FIT AND PROPER - 1902844TAXI (Pages 23 - 68)
9. CONSIDERATION OF FIT AND PROPER – 22/00324/TAXI (Pages 69 - 104)
10. CONSIDERATION OF FIT AND PROPER – 21/02440/TAXI (Pages 105 - 138)

The Committee Administrator for this meeting is Mark Durnford who can be contacted on 01225 394458.

**BATH AND NORTH EAST SOMERSET COUNCIL**

**LICENSING SUB-COMMITTEE**

Thursday, 1st December, 2022, 10.00 am

**Councillors:** Rob Appleyard (Chair), Steve Hedges and Sally Davis (Reserve) (in place of Karen Warrington)

**Officers in attendance:** Carrie-Ann Evans (Team Leader, Legal Services), John Dowding (Lead Officer - Licensing) and Geoff Cannon (Public Protection Officer (Licensing))

**73 EMERGENCY EVACUATION PROCEDURE**

The Democratic Services Officer drew attention to the Emergency Evacuation Procedure.

**74 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

Councillor Sally Davis was present for the duration of the meeting as a substitute for Councillor Karen Warrington.

**75 DECLARATIONS OF INTEREST**

Councillor Rob Appleyard declared an other interest in respect of Agenda Item 11 'Application for a Variation of a Premises Licence for: The Rising Sun'. He explained that he had received correspondence from one of the parties objecting to the application and had notified the Legal and Licensing teams on receipt.

He added that no further engagement took place and that the correspondence would have no impact on the decision that he would make today.

**76 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR**

There was none.

**77 MINUTES OF PREVIOUS MEETINGS: 11TH AUGUST 2022 / 25TH AUGUST 2022 / 8TH SEPTEMBER 2022**

The Sub-Committee **RESOLVED** to approve the minutes for the meetings held on 11<sup>th</sup> August 2022, 25<sup>th</sup> August 2022 and 8<sup>th</sup> September 2022 and they were duly signed by the Chairman.

**78 LICENSING PROCEDURES**

The Chairman referenced the procedures for each of the applications before the Sub-Committee and stated that all parties would be given an equal opportunity to make their representations.

## 79 EXCLUSION OF THE PUBLIC

The members of the Sub-Committee agreed that they were satisfied that the public interest would be better served by not disclosing relevant information, in accordance with the provisions of Section 100(A)(4) of the Local Government Act 1972.

It was **RESOLVED** that the public be excluded from the meeting for the following items of business and the reporting of the meeting be prevented under Section 100A(5A), because of the likely disclosure of exempt information as defined in paragraphs 1 and 2 of Part 1 of Schedule 12A of the Act, as amended.

## 80 APPLICATION FOR HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE: 22/01714/TAXI

The Lead Officer, Licensing introduced the report to the Sub-Committee. He explained that they were being asked to determine an application for the grant of a combined Hackney Carriage/Private Hire Driver's licence.

He stated that as part of the standard licencing procedure the Disclosure & Barring Service (DBS) was requested to carry out a check of the applicant's background. The results of the DBS check were received in September 2022 and disclosed previous convictions.

The Lead Officer, Licensing handed out copies of the Disclosure and Barring Service Certificate to the Members for them to read.

The Sub-Committee adjourned for a short period of time to allow the Members read the information contained within the DBS Certificate.

When they reconvened, the Sub-Committee asked the applicant a number of questions and he responded accordingly.

The Chairman asked the applicant if he felt he had given the Sub-Committee as much information regarding the application as he could.

The applicant replied that he had.

### Decision and Reasons

Members have had to determine an application for a combined Hackney Carriage/Private Hire Driver's Licence where the DBS results revealed two previous convictions. In doing so they took account of the Local Government (Miscellaneous Provisions) Act 1976, Human Rights Act 1998, case law and the Council's Policy.

The applicant made written representations in which he indicated that he could not remember the details of his conviction from 1988. In relation to his conviction from 2005 he explained that he immediately admitted the offending to the complainant when it was identified; he admitted the offences to the police and pleaded guilty at court. He served his sentence and repaid the funds to the complainant.

Members took account of the applicant's oral representations and his written statement and balanced these against the information contained in the Disclosure and Barring Service Certificate.

Members noted that the applicant had remained conviction free for well in excess of the period expected in the policy.

In all the circumstances Members find the applicant to be a fit and proper person to hold a combined Hackney Carriage/Private Hire Driver's Licence given the time he had remained conviction free and the genuine remorse that he showed for the historic conduct that led to his latest conviction.

Authority is delegated to the licencing officer to issue the licence subject to the applicant completing all steps required by the licencing process.

## **81 RETURN TO PUBLIC SESSION**

## **82 APPLICATION FOR VARIATION OF A STREET TRADING CONSENT, PITCH 24, JIMMY'S KEBAB, TERRACE WALK, BATH.**

The Public Protection Officer, Licensing introduced the report to the Sub-Committee. He explained that an application has been received from Mehmet Yilmaz, Operator of Jimmy's Kebab mobile food van to vary the Street Trading Consent times for Jimmy's Kebab, Pitch 24, Terrace Walk, Bath, from finishing at 03:00hrs to finishing at 03:30hrs every day (to trade 30 minutes later).

He stated that the times applied for are: 20:30hrs to 03:30hrs every day (to trade 30 minutes later. The start time is unaltered).

He informed the Sub-Committee that an objection had been received from The Abbey Hotel and that it is alleged that:

The Abbey Hotel already suffers disturbances coming from Jimmy's Kebab and that guests staying at the Abbey Hotel will be further impacted by the additional 30 minutes trading time.

The applicant's solicitor explained why the variation was being sought. He and the applicant were both asked questions by the Sub-Committee and both responded accordingly.

The solicitor on behalf of the objectors stated their case for why the application should be refused. He was asked questions by the Sub-Committee and responded accordingly.

The Chairman asked both parties to make their closing submissions.

Following this, he asked them if they felt they had given all the evidence necessary for their respective arguments.

Both parties agreed that they had.

### Decision and Reasons

Members have had to determine an application to vary a Street Trading consent at Pitch 24, Terrace Walk, Bath, to increase the hours of operation by half an hour at the end of each day. In determining the application, Members had regard to the Local Government (Miscellaneous Provisions) Act 1982, Council Policy and Human Rights Act 1998.

Angus McWilliams, solicitor, addressed the Sub-Committee on behalf of the applicant. He submitted that there is no evidence to support the fact that the noise and disturbance was originating from Jimmy's Kebabs particularly as there are nightclubs and a taxi rank in the vicinity. He indicated to members that the extension as sought would allow an extra 30 minutes to prepare for closing, serve the last few customers and for his client to set himself up to close at the proper time, this would also allow his client to meet a demand. The applicant indicated that he had employed extra staff in order to serve customers quickly and manage noise.

Mr McWilliams submitted that the photographs provided by the objector's solicitors were not time stamped and, in any event, this was not the proper forum to deal with an alleged breach of the street trading consent. On questioning it was accepted that the photographs were timed and dated as indicated, as the objector had brought the camera with him to prove this. He also submitted that the fact the application had come before the Sub-Committee in July was irrelevant.

There was a written representation from The Abbey Hotel. It was submitted that the hotel already suffers disturbances coming from this pitch and guests staying at the hotel will be further impacted by the additional 30 minutes trading.

George Domleo, solicitor, addressed members on behalf of the Abbey Hotel. In his submissions he disputed that this is not the right forum for the photographs. He indicated that this shows Jimmy's Kebabs are clearly trading beyond their permitted hours and the Hotel has no confidence that if the extension was granted, the pitch would actually close at 3:30am.

Mr Domleo indicated that during the 3-4 years that Jimmy's Kebabs has been at the pitch there has been an increase in antisocial behaviour and whilst people might come from the Labyrinth and Second Bridge nightclubs, they go to Jimmy's Kebabs which acts as a magnet. The Hotel has had to pay compensation or offer alternative rooms due to the disturbance caused by the pitch to the guests.

Members noted that additional information submitted by the objector's solicitor had been shared with the applicant. This comprised a covering letter and two photographs which were said to show the pitch in use beyond the permitted hours on 8th and 9th October 2022. Members noted that this is not a review of the existing street trading consent nor is it to consider alleged breaches of the consent however, they can have regard to evidence that is relevant to the potential impact of the extension sought. Members noted that there was no dispute regarding the time and date of these photographs. They received an explanation from the applicant for why customers were at the pitch after 3am on these occasions.

Members were mindful that this application was to be considered on its own merits regardless of any application that came before it in July.



Members noted that there were no representations from consultees such as the Police, Environmental Protection or Highways Department.

In reaching a decision Members took account of the relevant representations and balanced the competing interests of the applicant and the objector.

Members noted that the principle of the pitch had already been established and this application concerns an increase in hours of operation from 0300 to 0330 daily.

Members are mindful that their Policy anticipates a street trading environment that is sensitive to the needs of residents alongside providing diversity and consumer choice, amongst other things.

Members had sympathy for Mr Yilmaz in relation to his commercial aspirations, however they were not relevant to this determination and found on the evidence that they had heard and read as indicated above, that there was likely to be an increase in nuisance and annoyance to residents of the Abbey Hotel that could not be mitigated by the standard or additional conditions. For that reason, they did not think that a shorter period of consent as a trial was appropriate either. Accordingly, they refused the application.

### **83 APPLICATION FOR A VARIATION OF A PREMISES LICENCE FOR THE RISING SUN, CHURCH STREET, PENSFORD. BS39 4AQ**

The Chairman addressed all who were present and explained that the Sub-Committee were solely hearing this application to vary the layout and design of the premises in accordance with the submitted plan. He said that the changes consist of permitting the use of an external bar at the rear of the premises.

The Public Protection Officer, Licensing introduced the report to the Sub-Committee. In addition to the outline of the application from the Chairman he highlighted the following areas from within the report.

- The internal licensable area of the premises is to remain unchanged from its current permission.
- The locations of fire safety and other safety equipment subject to change in accordance with the requirements of the responsible authorities or following a risk assessment.
- Any detail shown on the plan that is not required by the licensing plans regulations is indicative only and subject to change at any time.
- All other hours, activities and conditions currently permitted by the premises are to remain unchanged by this application.

The Chairman asked the Public Protection Officer if the external bar area was already in operation and if so, had any complaints relating to its use been received.

The Public Protection Officer replied that the external bar area had been in use for a number of years and that no complaints had been received regarding it by either Licensing, Environmental Health or the Police.

The applicant's solicitor, Ewan Macgregor addressed the Sub-Committee. He stated that the applicant purchased the premises in 2019 and were now taking the appropriate steps to formalise the use of the external bar.

He reminded those present that regardless of the decision made today that customers will remain allowed to consume alcohol in the garden area. He added that the external bar would not be open all day every day, but when it was in use it would be staffed at all times.

He asked the Sub-Committee to note that no representations have been received from any of the Responsible Authorities.

He explained that external bars had become more popular since the pandemic and that its use would assist with customer flow on the premises.

The Chairman asked for confirmation that drinks purchased inside the premises could be consumed in the outside area. He also asked if the external bar would be staffed at all times.

Ewan Macgregor replied that there would be staff in place at all times whilst the bar was in use and that there would also be CCTV in operation. He added that staff would still supervise the outside area even when the bar was not in use.

The objectors to the application that were present took it in turns to address the Sub-Committee.

Paul Baxter stated that he believed that a licence to use the outdoor area did not truly exist and said that when it has been in use the noise levels of the music have been far too high.

He added that residents are concerned with regard to future activity as they have seen advertisements from the premises to both use the facilities and seek events staff.

Councillor Steve Hedges reminded all who were present that the Sub-Committee were today not dealing with the issue of other permissions that premises has under its current licence.

Richard Garland said that having a bar outside really was an issue of concern for residents as they feel that this will lead to an increase in functions being held in that area.

He added that he had recorded levels of between 51 – 56 decibels in his home when the playing of music outside had occurred during events and weddings.

Kenneth Jones commented that excessive noise already occurs when events are held at the premises and reiterated the point that residents are worried that having the outside bar in use will lead to further events being organised.

He added that a member of staff from the premises has approached residents on this matter and that this action could be considered as bullying.

He also questioned whether planning permission for a change of use or building regulations had been applied for and approved.

The Chairman stated that Planning is a separate regime to Licensing and asked if they had reported their noise complaints.

Paul Baxter replied that complaints had been made directly to the brewery.

Chris Danson said that when he has complained directly to the pub about excessive noise they have simply responded by saying they have a licence and therefore there was nothing that residents could do.

He added that at some events held the live music had gone on for at least 10 hours. He said that a private investigation relating to the current licence was ongoing as the Council are unable to prove that use of the garden is already licensed.

The Chairman said that he understood the concerns that were being raised, but that they were not under consideration at the hearing today.

Chris Danson stated that if the variation is granted it will affect the residents greatly. He suggested that a stipulation should be added to the licence to block the use of amplified music.

The Chairman asked the Public Protection Officer to confirm that the current licence allows for music to be played in the outside area.

The Public Protection Officer confirmed that under the current licence the premises is able to have Live and Recorded Music, both indoors and outdoors at the following times.

Monday to Thursday 11:00 - 00:00  
Friday and Saturday 11:00 - 01:00  
Sunday 12:00 - 22:30

The Chairman explained that the Sub-Committee cannot remove those elements of the licence at the hearing today. He added that there were routes of action to take if members of the public were unhappy with a specific premises. He said that matters should be reported to the Licensing and Environmental Health teams.

Layla Malt commented that some local people have felt intimidated when they have raised concerns directly to the premises. She acknowledged that she expected a certain level of noise from the pub when she bought her house.

She stated that there would be no impact to the trade of the pub if the variation was refused, but that it would impact the residents if it was granted. She added that 80% of the objectors live in the immediate vicinity of the premises.

Sue Wilmott-Lerway said that events are always unannounced and are overwhelming when held.

John Crane stated that the volume of music from the premises was just too much.

The Team Leader, Legal Services sought confirmation that all parties were satisfied that they had given their submissions to the Sub-Committee.

All parties confirmed they had.

The Sub-Committee received closing statements from a representative from the objectors and the applicant's solicitor.

Paul Baxter said that he was sure that the granting of the variation would lead to an additional noise nuisance as more events would be held at the premises.

Ewan McGregor stated that St Austell Brewery have not had any enforcement taken against them with regard to these premises and added that a previous review of the licence had resulted in no action being taken against them by the Council.

He reminded the Sub-Committee that no representations had been received from any of the Responsible Authorities and said that if residents do have concerns, then the proper process would be to call for another review.

He said that supervision of the outside area would be in place whilst the bar was in use and that the balance of local opinion received were in support of the application.

### Decision and Reasons

Members have determined an application to vary a Premises Licence at The Rising Sun, Church Street, Pensford, BS39 4AQ. In doing so they have taken into consideration the Licensing Act 2003, Statutory Guidance, the Council's Policy, Human Rights Act 1998 and case law.

Members are aware that the proper approach under the Licensing Act is to be reluctant to regulate in the absence of evidence and must only do what is appropriate and proportionate in the promotion of the licensing objectives on the information before them. Members reminded themselves that this is not a review of the existing Premises Licence, and the applicant should not come away with less than is already permitted under the terms of that licence. Members reminded themselves that each application must be considered on its own merits.

Members noted that this application is to vary the layout and design of the premises in accordance with the submitted plan, the changes seek permission for the use of an external bar at the rear of the premises as noted on the plan submitted with the application.

### The Applicant

Members noted that the applicant had submitted one lot of additional information prior to the hearing comprising an 8 page document including photographs entitled

Submissions on behalf of St Austell Brewery Limited (the Applicant). Members had regard to this additional information.

The applicant's solicitor, Ewan McGregor, addressed members in oral submissions. He referred members to the 8 page submissions document provided on behalf of the applicant. He indicated to members that the external bar will assist with customer flow and supervision in the outside area and will avoid patrons having to purchase their drinks from within the premises and walk across the car park to the outside area. Mr McGregor noted that there were a number of residents present to show their support for the application, but he did not propose to call them to give evidence. Mr McGregor submitted that it was key that there were no representations from responsible authorities including the Police and Environmental Health Officers. He confirmed the conditions offered by the applicant in order to promote the licensing objectives.

#### The Interested Parties

#### Objections

There were 12 written representations received from a former resident and residents of Pensford, objecting to the application. The prevention of public nuisance and the protection of children from harm licensing objectives were cited. The representations indicated that the bar would result in an increase in noise that would disturb residents, including children trying to sleep.

Members heard from Paul Baxter, Sue Wilmott-Lerway, Kenneth Jones, Richard Garland, Layla Malt, Chris Danson and John Crane in oral representations who amplified their written representations. In summary, and in so far as is relevant to the application before Members, there were concerns that the bar would make the garden more appealing thus resulting in increased noise disturbance, antisocial behaviour and public nuisance. Layla Grant asked members to consider the fact that 80% of the opposing submissions come from people living in the immediate vicinity to the pub whereas 30% of those in support live in the immediate vicinity. In summing up, Mr Baxter indicated that when the bar is open there is a persistent noise nuisance.

#### In support

There were 18 representations in support of the application received from residents of Pensford. They indicated that the bar in the outside garden area had not been and would not be a source of noise nuisance to them and could not identify any negative impact if the application is granted. Some indicated that they did not think there would be any crime as a result of the application, if granted. In fact, the benefits of a manned bar were cited in terms of financial safety and propriety.

Members noted that persons in support had attended the hearing.

#### Responsible Authorities

Members noted that there were no representations from Responsible Authorities which include the Police in terms of crime and disorder or Environmental Health relating to nuisance.

## Members

Members noted that the external bar the subject of the application was in situ and being used when the applicant took over the premises in 2019 and that the applicant mistakenly believed it was permitted, this application is to regularise such use. Members reminded themselves that the external area is currently used and may continue to be used under the existing Premises Licence for the consumption of alcohol by customers of the premises and for the provision of live and recorded music, regardless of the outcome of this application.

Members were careful to take account of the relevant written and oral representations both for and against the application and balanced their competing interests. Members also noted the additional information presented by the parties.

Members were careful to disregard irrelevant matters falling outside of the scope of the licensing regime and/or outside of the scope of the application before them, such as parking, the prevention of harm to children not on the premises, wildlife, the status of the external areas, historic licensing regimes and noise from live and recorded music from the external area.

Members empathised with the concerns of Interested Parties against the application. On the balance of probabilities, however, Members found that the application if granted would not undermine the promotion of one or more of the licensing objectives and with the conditions being offered as part of the application, Members find it appropriate and proportionate to grant the premises licence as applied for.

Members delegate authority to the licensing officer to issue the licence as applied for with conditions consistent with the Operating Schedule.

The meeting ended at 2.00 pm

Chair(person) .....

Date Confirmed and Signed .....

**Prepared by Democratic Services**

## **BATH AND NORTH EAST SOMERSET**

### **LICENSING SUB-COMMITTEE**

Tuesday, 6th December, 2022

**Present:-** Councillors Steve Hedges (Chair), Michael Evans and Karen Warrington

**Also in attendance:** Shaine Lewis (Legal Services Manager & Deputy Monitoring Officer) and Chris Jennings (Public Protection Officer (Licensing))

#### **84 EMERGENCY EVACUATION PROCEDURE**

The Democratic Services Officer drew attention to the Emergency Evacuation Procedure.

#### **85 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

There were none.

#### **86 DECLARATIONS OF INTEREST**

There were none.

#### **87 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR**

There was none.

#### **88 LICENSING PROCEDURE**

The Chair confirmed that the applicant had received the procedure for the meeting and outlined it to those who were present.

#### **89 APPLICATION FOR A NEW PREMISES LICENCE FOR THE BATH BOTTLE SHOP, 16 MARGARET'S BUILDINGS, BATH. BA1 2LP**

The Public Protection Officer (Licensing) introduced the report to the Sub-Committee. He explained that the application proposes the following licensable activities:

- The supply of alcohol for consumption on and off the premises Monday to Saturday 09:00hrs - 23:00hrs and Sundays 10:00hrs - 23:00hrs.

He added that the application proposes the following opening times:

- Monday to Saturday 09:00 - 23:30
- Sundays 10:00 to 23:30

He outlined the measures offered by the applicant to promote the licensing objectives.

He stated that a representation of objection had been received within the statutory period from a resident living near to the premise. He said that the resident expresses concern that the applicant's proposals are likely to undermine the Public Nuisance and Prevention of Crime and Disorder licensing objectives.

He informed the Sub-Committee that the objector would not be attending the meeting today.

James Wade addressed the Sub-Committee on behalf of the applicant. He stated that there was no intention to turn the premises into a pub and that the premises will primarily be a retail shop.

He informed the Sub-Committee that some infrequent events were likely to be held on the premises, such as Tasting Events and Poetry readings.

Councillor Steve Hedges asked if the four seats indicated on the plan for the outside courtyard would form part of the licensable area of the premises.

James Wade confirmed that they would.

Councillor Steve Hedges asked what measures will be put in place to mitigate the possibility of any excessive noise.

James Wade replied that all staff will be appropriately trained and that any events held would be quite low key. He added that no sporting events would be shown on the premises.

### Decision and Reasons

Members have determined an application for a new Premises Licence at 16 Margaret's Buildings, Bath. In doing so, they have taken into consideration the Licensing Act 2003, Statutory Guidance, the Council's Policy, Human Rights Act 1998 and case law.

Members are aware that the proper approach under the Licensing Act is to be reluctant to regulate in the absence of evidence and must only do what is appropriate and proportionate in the promotion of the licensing objectives on the information before them. Members reminded themselves that each application must be considered on its own merits.

The applicant stated this is an application for a new premises licence at premises formerly used as an art gallery. The application was to supply alcohol for consumption on and off the premise and in order to promote the licensing objectives the application offered a number of conditions. It was stated that the premises are designed to be a retail shop catering for infrequent small events. The premises are small and not suitable to morph into a public house.

The Interested Party objected on the prevention of public nuisance and prevention of crime and disorder licensing objectives. It was stated that with other licensed premises in this residential area the premises were not appropriate as it can be



noisy, unruly and it is often difficult for pedestrians, pushchairs and wheelchairs to move through the area.

In determining the application Members took account of the relevant written and oral representations and balanced their competing interests. In terms of the premises location Members found them in a mixed residential and commercial part of the city and disregarded issues relating to licencing need, other statutory regimes, character and appearance of the area and the health and safety of those not on the premises.

With regard to nuisance and antisocial behaviour Members noted there were no representations from Responsible Authorities, no evidence of incidences directly attributable to licenced premises in the vicinity and the applicant had offered a thorough package of conditions designed to promote all four licencing objectives.

Whilst Members have sympathy with the Interested Party there was no evidence before them of nuisance or antisocial behaviour associated with licensed premises in the area. Accordingly, as Members have nothing upon which to base a reasonable belief the premises would have a detrimental effect on the licencing objectives the application is granted as applied for.

Authority is delegated to the licensing officer to issue the licence with conditions consistent with the operating schedule.

The meeting ended at 10.20 am

Chair(person) .....

Date Confirmed and Signed .....

**Prepared by Democratic Services**

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### **Licensing Sub Committee Hackney Carriage (taxi) and Private Hire Driver Application Procedure**

1. The Chair will introduce Members of the Committee, introduce the Officers present, explain the procedure to be followed and ensure those present have received and understood that procedure.
2. The Licensing Officer will outline the nature of the matter to be considered by the Committee.
3. The Applicant, representative and/or witness is asked to leave the room while the Committee consider the Disclosure and Barring Service report, references and statement.
4. The Applicant, representative and/or witness returns and presents the case to the Committee.
5. The Applicant may be questioned about the matter by the Committee.
6. The Applicant may call witnesses in support of their application and each witness may be asked questions.
7. The Chair will ask the Licensing Officers present whether they wish to comment. If an Officer makes comment they may be asked questions.
8. The Applicant will be invited to make a closing statement.
9. The Chair will invite the Committee to move into private session to enable the Members to deliberate in private. The Committee will reconvene publicly if clarification of evidence is required and/or legal advice is required. The Committee may retire to a private room, or alternatively require vacation of the meeting room by all other persons.
10. Whilst in deliberation the Committee will be accompanied by Legal and Democratic Services Officers for the purpose of assisting them in drafting their reasoning for the decision.
11. The Committee will reconvene the meeting and the Chair will announce the Committee's decision with reasons and advise that the decision will be released in writing within the statutory time limits.

Updated November 2013

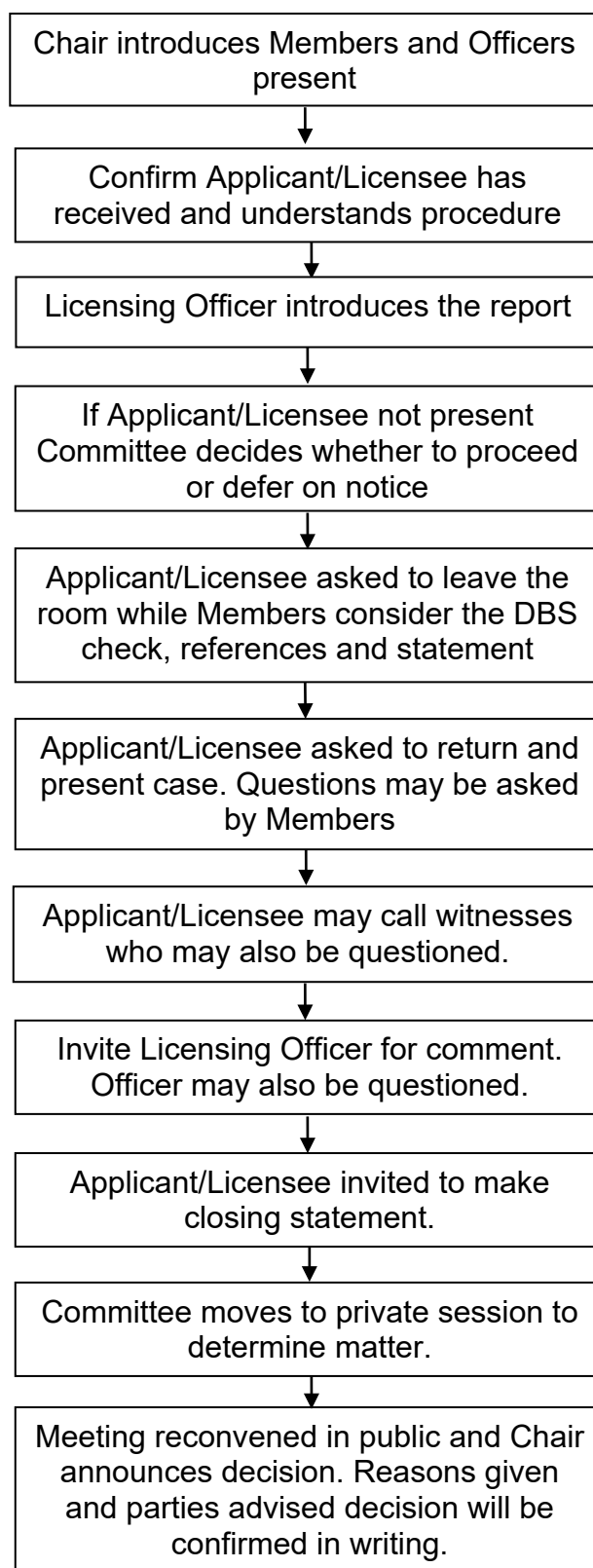
### **PLEASE NOTE:**

- Where the Committee considers it necessary the procedure may be varied.
- In circumstances where a party fails to attend the Committee will consider whether to proceed in absence or defer to the next meeting. Should a matter be deferred the deferral notice will state that the matter may proceed in a party's absence on the next occasion. In deciding whether to proceed all notices, communications and representations will be considered.
- Only in **exceptional circumstances** will the Committee take account of additional late documentary or other information and will be at the discretion of the Chair and on notice to all the other parties. No new representations will be allowed at the hearing.
- The Committee will disregard all information or representations considered irrelevant.
- The hearing will take the form of a discussion. The Committee will allow parties to the proceedings to ask questions. Formal cross examination will be discouraged and, should they be necessary, supplementary questions allowed for clarification purposes only.
- Parties will have an equal amount of time to present their cases. Whilst time limits are at the Chair's discretion, in the interests of cost and efficiency, presentations will not normally exceed **twenty minutes** to include summarising the case. Time limits will not include the time taken for questions.

#### **N.B.**

1. Where there is more than one party making relevant representations the time allocated will be split between those parties.
  2. Where several parties are making the same or similar representations it is suggested that one representative is appointed to avoid duplication and to make the most efficient use of the allocated time.
  3. Where an objection is made by an association or local residents group, a duly authorised person – as notified to the Licensing authority – may speak on behalf of that association or local residents group.
- The Chair may request that persons behaving in a disruptive manner should leave the hearing and their return refused, or allowed subject to conditions. An excluded person is however, entitled to submit the information they would have been entitled to present had they not been excluded.
  - Bath & North East Somerset Council is committed to taking decisions in an honest, accountable and transparent fashion. On occasion however, it may be necessary to exclude members of the press and public pursuant to the Local Government Act 1972 Schedule 12 (a). In those circumstances reasons for such decisions will be given.
  - If a person has special needs regarding access, hearing or vision, this should be brought to the Licensing Authority's attention prior to the hearing so that reasonable adjustments may be made.

**LICENSING SUB-COMMITTEE  
HACKNEY CARRIAGE (TAXI) AND  
PRIVATE HIRE VEHICLES DRIVERS' LICENCE PROCEDURE**



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## Access to Information Arrangements

### Exclusion of access by the public to Council meetings

Information Compliance Ref: LGA-1210990
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Meeting / Decision: Licensing Sub-Committee
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Date: Thursday 9 <sup>th</sup> March 2023
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Author: John Dowding
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<b>Exempt Report Title: Consideration of Fit and Proper</b>
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Exempt Appendix Title(s):
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<b>Exempt Annex A- Current Licence</b>
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<b>Exempt Annex B – Extracted Page From MOT History Check .Gov Site.</b>
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<b>Exempt Annex C – Invoices May 22 Tyres Worn, Invoice September Tyres Replaced.</b>
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<b>Exempt Annex D – Correspondence. Gap In MOT Cover &amp; 110 Miles Travelled.</b>
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<b>Exempt Annex E – Invoices For Work Carried Out And Mileage Recorded.</b>
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<b>Exempt Annex F – Further Correspondence On 110 Miles Travelled.</b>
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<b>Exempt Annex G – First Warning Issued Breach Of Conditions (Insurance).</b>
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<b>Exempt Annex H – Policy on Hackney Carriage &amp; Private Hire Licensing Standards for Drivers, Vehicles and Operators</b>
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The Report contains exempt information, according to the categories set out in the Local Government Act 1972 (amended Schedule 12A). The relevant exemption is set out below.

Stating the exemption:
------------------------

- |   |
|---|
| <ol style="list-style-type: none"> <li>1. Information relating to any individual</li> <li>2. Information which is likely to reveal the identity of an individual</li> <li>3. Information relating to the financial or business affairs of any particular person (including the authority holding that information)</li> </ol> |
|---|

The public interest test has been applied, and it is concluded that the public interest in maintaining the exemption outweighs the public interest in disclosure at this time. It is therefore recommended that the Report be withheld from publication on the Council website. The paragraphs below set out the relevant public interest issues in this case.

### PUBLIC INTEREST TEST

If the Sub-Committee wishes to consider a matter with press and public excluded, it must be satisfied on two matters.

Firstly, it must be satisfied that the information likely to be disclosed falls within one of the accepted categories of exempt information under the Local Government Act 1972. The officer responsible for this item believes that this information falls within the following exemptions and this has been confirmed by the Council's Information Compliance Manager.

The following exemptions are engaged in respect to this report:

1. Information relating to any individual
2. Information which is likely to reveal the identity of an individual
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information)

Exemptions 1 and 2 above must be considered in conjunction with the Principles of the Data Protection Act 2018 (DPA). It is considered that disclosure of the information in this report would breach the first principle of the DPA, which requires personal data to be fairly and lawfully processed.

Secondly, it is necessary to weigh up the arguments for and against disclosure on public interest grounds. It is considered that there is a public interest in information about individuals applying for taxi licences in the area, and in particular, information as to the backgrounds of those individuals.

Other factors in favour of disclosure include:

- furthering public understanding of the issues involved;
- furthering public participation in the public debate of issues, in that disclosure would allow a more informed debate;
- promoting accountability and transparency by the Council for the decisions it takes;
- allowing individuals and companies to understand decisions made by the Council affecting their lives and assist individuals to challenge those decisions.

However there is a real risk that the first Principle of the DPA will be breached by this disclosure, and that the individual/s concerned could bring a successful action against the Council if the disclosure occurred. Therefore it is recommended that exemptions 1 and 2 in Schedule 12A stand. The Council considers that the public interest is in favour of not holding this matter in open session at this time and that any reporting on the meeting is prevented in accordance with Section 100A(5A)

Due to the factors outlined above, further consideration has not been given to the application of exemption 3 of Schedule 12A.



By virtue of paragraph(s) 1, 2 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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## Access to Information Arrangements

### Exclusion of access by the public to Council meetings

Information Compliance Ref: LGA-1211093

Meeting / Decision: Licensing Sub-Committee

Date: Thursday 9<sup>th</sup> March 2023

Author: Wayne Campbell

#### **Exempt Report Title: Consideration of 'Fit and Proper' status**

Exempt Appendix Title(s):

**Exempt Annex A- Current Licence.**

**Exempt Annex B – Failure To Produce Insurance Warnings.**

**Exempt Annex C – Correspondence from Previous Incident.**

**Exempt Annex D – Correspondence from Previous Incident.**

**Exempt Annex E - Policy on Hackney Carriage & Private Hire Licensing Standards for Drivers, Vehicles and Operators.**

The Report contains exempt information, according to the categories set out in the Local Government Act 1972 (amended Schedule 12A). The relevant exemption is set out below.

Stating the exemption:

1. Information relating to any individual
2. Information which is likely to reveal the identity of an individual
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information)

The public interest test has been applied, and it is concluded that the public interest in maintaining the exemption outweighs the public interest in disclosure at this time. It is therefore recommended that the Report be withheld from publication on the Council website. The paragraphs below set out the relevant public interest issues in this case.

#### PUBLIC INTEREST TEST

If the Sub-Committee wishes to consider a matter with press and public excluded, it must be satisfied on two matters.

Firstly, it must be satisfied that the information likely to be disclosed falls within one of the accepted categories of exempt information under the Local Government Act 1972. The officer responsible for this item believes that this information falls within the following exemptions and this has been confirmed by the Council's Information Compliance Manager.

The following exemptions are engaged in respect to this report:

1. Information relating to any individual
2. Information which is likely to reveal the identity of an individual
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information)

Exemptions 1 and 2 above must be considered in conjunction with the Principles of the Data Protection Act 2018 (DPA). It is considered that disclosure of the information in this report would breach the first principle of the DPA, which requires personal data to be fairly and lawfully processed.

Secondly, it is necessary to weigh up the arguments for and against disclosure on public interest grounds. It is considered that there is a public interest in information about individuals applying for taxi licences in the area, and in particular, information as to the backgrounds of those individuals.

Other factors in favour of disclosure include:

- furthering public understanding of the issues involved;
- furthering public participation in the public debate of issues, in that disclosure would allow a more informed debate;
- promoting accountability and transparency by the Council for the decisions it takes;
- allowing individuals and companies to understand decisions made by the Council affecting their lives and assist individuals to challenge those decisions.

However there is a real risk that the first Principle of the DPA will be breached by this disclosure, and that the individual/s concerned could bring a successful action against the Council if the disclosure occurred. Therefore it is recommended that exemptions 1 and 2 in Schedule 12A stand. The Council considers that the public interest is in favour of not holding this matter in open session at this time and that any reporting on the meeting is prevented in accordance with Section 100A(5A)

Due to the factors outlined above, further consideration has not been given to the application of exemption 3 of Schedule 12A.

By virtue of paragraph(s) 1, 2 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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## **Access to Information Arrangements**

### **Exclusion of access by the public to Council meetings**

Information Compliance Ref: LGA-1211004

Meeting / Decision: Licensing Sub-Committee

Date: Thursday 9<sup>th</sup> March 2023

Author: Wayne Campbell

#### **Exempt Report Title: Consideration of 'Fit and Proper' status**

Exempt Appendix Title(s):

**Exempt Annex A- Current Licence.**

**Exempt Annex B – Failure To Produce Insurance Warnings.**

**Exempt Annex C – Failure to Produce MOT Warnings.**

**Exempt Annex D – Correspondence from Previous Incident.**

**Exempt Annex E – Correspondence from Previous Incident**

**Exempt Annex F – Correspondence from Previous Incident.**

**Exempt Annex G - Policy on Hackney Carriage & Private Hire Licensing Standards for Drivers, Vehicles and Operators.**

The Report contains exempt information, according to the categories set out in the Local Government Act 1972 (amended Schedule 12A). The relevant exemption is set out below.

Stating the exemption:

1. Information relating to any individual
2. Information which is likely to reveal the identity of an individual
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information)

The public interest test has been applied, and it is concluded that the public interest in maintaining the exemption outweighs the public interest in disclosure at this time. It is therefore recommended that the Report be withheld from publication on the Council website. The paragraphs below set out the relevant public interest issues in this case.

#### **PUBLIC INTEREST TEST**

If the Sub-Committee wishes to consider a matter with press and public excluded, it must be satisfied on two matters.

Firstly, it must be satisfied that the information likely to be disclosed falls within one of the accepted categories of exempt information under the Local Government Act 1972. The officer responsible for this item believes that this information falls within the following exemptions and this has been confirmed by the Council's Information Compliance Manager.

The following exemptions are engaged in respect to this report:

1. Information relating to any individual
2. Information which is likely to reveal the identity of an individual
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information)

Exemptions 1 and 2 above must be considered in conjunction with the Principles of the Data Protection Act 2018 (DPA). It is considered that disclosure of the information in this report would breach the first principle of the DPA, which requires personal data to be fairly and lawfully processed.

Secondly, it is necessary to weigh up the arguments for and against disclosure on public interest grounds. It is considered that there is a public interest in information about individuals applying for taxi licences in the area, and in particular, information as to the backgrounds of those individuals.

Other factors in favour of disclosure include:

- furthering public understanding of the issues involved;
- furthering public participation in the public debate of issues, in that disclosure would allow a more informed debate;
- promoting accountability and transparency by the Council for the decisions it takes;
- allowing individuals and companies to understand decisions made by the Council affecting their lives and assist individuals to challenge those decisions.

However there is a real risk that the first Principle of the DPA will be breached by this disclosure, and that the individual/s concerned could bring a successful action against the Council if the disclosure occurred. Therefore it is recommended that exemptions 1 and 2 in Schedule 12A stand. The Council considers that the public interest is in favour of not holding this matter in open session at this time and that any reporting on the meeting is prevented in accordance with Section 100A(5A)

Due to the factors outlined above, further consideration has not been given to the application of exemption 3 of Schedule 12A.



By virtue of paragraph(s) 1, 2 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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